

FORREST A. HAINLINE III (Bar No. 64166)  
GOODWIN PROCTER LLP  
101 California Street, Suite 1850  
San Francisco, CA 94111  
Telephone: (415) 733-6000  
Facsimile: (415) 677-9041  
Email: fhainline@goodwinprocter.com

Attorneys for Defendants  
IVAX CORPORATION and  
IVAX PHARMACEUTICALS, INC.

MICHAEL K. PLIMACK (Bar No. 133869)  
CHRISTINE SAUNDERS HASKETT (Bar No. 188053)  
ELENA M. DIMUZIO (Bar No. 239953)  
HELLER EHRMAN LLP  
333 Bush Street  
San Francisco, CA 94104-2878  
Telephone: (415) 772-6000  
Facsimile: (415) 772-6268  
Email: Michael.Plimack@hellerehrman.com

Attorneys for Plaintiff  
DEPOMED, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DEPOMED, INC., a California corporation,

Plaintiff,

v.

IVAX CORPORATION, a Florida corporation, and  
IVAX PHARMACEUTICALS, INC., a Florida  
corporation,

Defendants.

Case No.: C-06-0100 CRB

**STIPULATION AND ~~PROPOSED~~  
ORDER AMENDING SCHEDULE**

The Honorable Charles R. Breyer

1 WHEREAS, the attorneys representing Defendants Ivax Corporation and Ivax  
2 Pharmaceuticals, Inc. (collectively, "Ivax") moved to a new law firm that cannot represent Ivax due  
3 to a conflict of interest; and

4 WHEREAS, Ivax retained new counsel that requested a modification to the current schedule  
5 in order to become familiar with the facts and evidence of the case; and

6 WHEREAS, the parties negotiated the modification now requested; and

7 WHEREAS, there have been no previous time modifications of the deadlines affected  
8 herein; and

9 WHEREAS, the requested modification will affect the dates under the Local Patent Rules  
10 set forth below but will not affect the tutorial and Markman hearings that have been scheduled for  
11 November 14 and 16, 2006, respectively,

12 THEREFORE, Plaintiff Depomed, Inc. ("Depomed") and Ivax, through their counsel, and  
13 pursuant to Civil Local Rules 6-1 and 6-2, jointly stipulate as follows:

14 1. Ivax shall serve its revised claim terms, phrases, or clauses that Ivax contends should  
15 be construed by the Court, and identification of any claim element that Ivax contends should be  
16 governed by 35 U.S.C. § 112(6) by **August 4, 2006**. The lists of claim terms, phrases, or clauses  
17 required by P.L.R. 4-1 were exchanged among the parties on June 26, 2006, per the Rule.  
18 Depomed has agreed, however, to allow Ivax to revise its list, if necessary, by August 4, 2006.  
19 Pursuant to a prior agreement among the parties, if Ivax lists more than five claim terms, phrases, or  
20 clauses, then those terms, phrases, or clauses shall be grouped so as to indicate in some fashion  
21 their relative importance to Ivax.

22 2. The deadline for simultaneous exchange by parties of (i) a "Preliminary Claim  
23 Construction" of each claim term, phrase, or clause that the parties have identified for claim  
24 construction purposes, and (ii) a "preliminary identification of extrinsic evidence" (including brief  
25 summary of substance of expert witness testimony) shall be **August 14, 2006**. This deadline has  
26 been extended from the original July 17, 2006 date. See P.L.R. 4-2(a) & (b) ("20 days after the  
27 exchange of the Proposed Terms and Claim Elements for Construction pursuant to P.L.R. 4-1").  
28 Pursuant to a prior agreement among the parties, each party shall provide proposed constructions

1 and preliminary identifications of extrinsic evidence for only those terms listed on that party's list  
2 of claim terms, phrases, and clauses for construction.

3 3. The parties shall meet and confer to narrow the list of claim terms, phrases, or  
4 clauses to be construed to five by **August 18, 2006**.

5 4. The deadline for filing the "Joint Claim Construction and Prehearing Statement"  
6 shall be **August 28, 2006**. This deadline has been extended from the original August 11, 2006 date.  
7 See P.L.R. 4-3 ("60 days after service of the Preliminary Invalidity Contentions").

8 5. Discovery relating to claim construction, including any depositions relating to claim  
9 construction of any witnesses, including experts, identified in the Joint Claim Construction and  
10 Prehearing Statement shall be completed by **September 18, 2006**. This deadline has been extended  
11 from the original September 11, 2006 date. See P.L.R. 4-4 ("30 days after service and filing of the  
12 Joint Claim Construction and Prehearing Statement").

13 6. Depomed shall serve and file its "opening brief" and any evidence supporting its  
14 claim construction by **October 2, 2006**. This deadline has been extended from the original  
15 September 25, 2006 date. See P.L.R. 4-5(a) ("45 days after service and filing of the Joint Claim  
16 Construction and Prehearing Statement").

17 7. Ivax shall serve and file its "responsive brief" and supporting evidence by **October**  
18 **16, 2006**. See P.L.R. 4-5(b) ("not later than 14 days after service of the opening brief").

19 8. Depomed shall file and serve any "reply brief" and supporting evidence by **October**  
20 **25, 2006**. See P.L.R. 4-5(c) ("not later than 7 days after service of a responsive brief").

21 9. Ivax will seek no further extensions before the Markman hearing, absent unforeseen  
22 and extenuating circumstances.

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1 IT IS SO STIPULATED.

2 Dated: August 3, 2006

HELLER EHRMAN LLP

3  
4 By /s Christine Saunders Haskett

CHRISTINE SAUNDERS HASKETT

5 Of Counsel: Ed Mandell

6 Law Offices of Edward L. Mandell  
7 20588 Debbie, Suite 204  
8 Saratoga, CA 95070

9 Attorneys for Plaintiff  
10 DEPOMED, INC.

11 Dated: August 3, 2006

GOODWIN PROCTER LLP

12  
13 By /s Forrest A. Hainline III

FORREST A. HAINLINE III

14 Attorneys for Defendants  
15 IVAX CORPORATION and  
16 IVAX PHARMACEUTICALS, INC.

17  
18 IT IS SO ORDERED.

19  
20 Dated: August 07, 2006

